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DIRECTOR OFFICE
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In re Application of: MURUKAMI
Application No. 10/663,732
Filed: September 17, 2003
For: DATA TRANSFER METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 11 April 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 07 December 2004.

The Petition is DENIED.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

...

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The original petition was dismissed for failing to meet requirement (e). Specifically, it was noted that the petition failed to deem which references were the most closely related and that it included only a single statement that the references do not include certain features of the claimed invention.

The renewed petition filed 11 April 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. While the renewed petition includes a detailed discussion of all the references deemed most closely related, the

discussion of the references is not sufficient. The discussion defines three features of the claimed invention and then goes on to state that none of the four references deemed "most closely related" teach or disclose these three features. These features make up essentially the entirety of independent claim 1. It is not clear if this discussion is intended to mean that none of the elements of claim 1 are disclosed by the prior art or that the entirety of claim 1 is not disclosed by the prior art. If the intent is the former, it would be difficult to conclude that the search was directed to the claimed invention if essentially *none* of the claim limitations were found in the prior art deemed "most closely related". If the intent is the latter, a statement that the entirety of independent claim 1 is not disclosed by the four references purported to be "most closely related" is not a sufficient detailed description.

Petition to Make Special **DENIED**.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

R. L. L-f-

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